IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15500 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANDHI BATUKBHAI GAGJIBHAI - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MA KHARADI for Petitioner(s) : 1,
MISS KIRAN PANDEY, AGP for Respondent(s) : 1 – 3,
MR VH DESAI for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 02/04/2007

ORAL JUDGMENT

The petitioner who is disabled person, has requested the respondents in view of the provisions of section 43 of the Persons with

Disabilities [Equal Opportunities Protection of Rights and Full Participation] Act [hereinafter referred to as 'the Act'], for allotment of 20 mtrs., of land to enable him to set-up business to earn his livelihood. It appears that initially he requested for allotment of land from survey no. 436 of village Paddhari. However, on inquiry it was learnt by the respondent no. 4 – Gram Panchayat that there was encroachment upon the said land and unless it was cleared the said land could not be allotted to the petitioner. In view of the same, the petitioner demanded land from another survey number i.e. 437/1. But since the said land was reserved for cemetery, the authorities expressed their inability to part with it. Ultimately the petitioner made fresh application for allotment of land bearing survey no. 441.

2. I have heard Mr. Kharadi, learned advocate for the petitioner and Miss Kiran Pandey, Ld. AGP for respondents no. 1 to 3. Mr. VH Desai, learned advocate for respondent no. 4 is absent. From the replies filed by the respondents together with annexures which are in the form of resolutions of the Panchayat and other documents, it appears that the respondents did not have any objection in allotting land bearing survey no. 441 to the petitioner. The petitioner made first application on June 12, 2003. Since then he has been moving from pillar to post to obtain land to set-up his business. It is a sorry state of affairs that inspite of the fact that ultimately the decision to allot land of survey no. 441 is already taken, till this date he is without the allotment of the land. The object of the Act is to see that the persons with disablement do not

suffer any inferiority complex and they may have equal opportunities for the protection of their rights and full participation in the activities of the main stream of the society and they should be extended the facilities as enumerated in section 43 of the Act. There is no dispute that the petitioner is physically handicapped and his disablement is assessed at 75%. In view of this, it is absolutely necessary that he should be provided with the land to enable him to earn the livelihood with honour and dignity. The petitioner is ready and willing to do it and he has been after the authorities for the last four years to let him have a piece of land to set-up his business. But unfortunately, despite willingness on the part of all concerned, he is still without it. In view of the same, necessary direction is required to be given to the respondents so as to make the petitioner available land admeasuring 20 mtrs., from survey no. 441 of Paddhari village. Hence the following direction :-

The respondents are directed to complete the process of allotment and allot land admeasuring 20 mtrs., from survey no. 441 of Paddhari village to petitioner on or before 30th June, 2007.

With the aforesaid direction, this petition is allowed. Rule made absolute with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.